

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE AS TO
	:	<u>SPECIFIC PROPERTY</u>
MICHAEL MORGAN,	:	
a/k/a "Jason Anthony Smalls,"	:	
	:	21 Cr. 556 (PGG)
Defendant.	:	
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WHEREAS, on or about September 8, 2021, MICHAEL MORGAN, a/k/a "Jason Anthony Smalls" (the "Defendant") was charged in a three-count Indictment, 21 Cr. 556 (PGG) (the "Indictment"), with firearms trafficking conspiracy, in violation of Title 18, United States Code, Section 371 (Count One); firearms trafficking, in violation of Title 18, United States Code, Sections 922(a)(1)(A), 924(a)(1)(D) and 2 (Count Two); felon in possession of a firearm and ammunition, in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2 (Count Three);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One through Three of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), of any and all firearms and ammunition involved in or used in the offenses charged in Counts One through Three of the Indictment, including but not limited to:

- a. a Ruger .45 caliber semi-automatic pistol, serial number ("SN") 67099710, with 25 rounds of ammunition;
- b. a Fabrique Nationale Herstal ("FNH") USA FNP40, .40 caliber pistol, serial number 61CMP12567, with 50 rounds of ammunition;
- c. a Taurus model PT 738 .380 caliber semi-automatic, model PT738, SN 1D120895, with 30 rounds of ammunition; and

d. a Rossi Model .38 caliber revolver, SN D834959, with 50 rounds of ammunition;

(a. through d., collectively, the “Specific Property”);

WHEREAS, on or about December 5, 2021, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), all of his right, title and interest in the Specific Property;

WHEREAS, the Defendant consents to the forfeiture of all his right, title and interest in the Specific Property, as firearms and ammunition involved in or used in the offense charged in Count One of the Indictment; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Ashley C. Nicolas, of counsel, and the Defendant, and his counsel, Neil P. Kelly, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, all of the Defendant’s right, title and interest in the Specific Property is

hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant, MICHAEL MORGAN, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith..

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances

of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

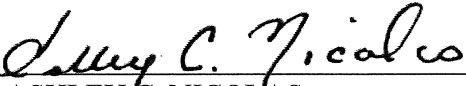
8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

9. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

10. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

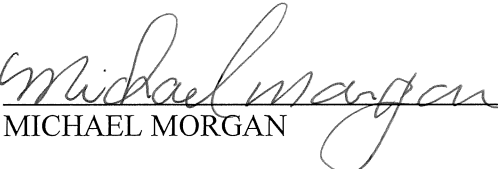
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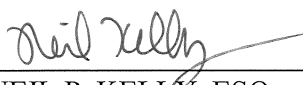
6/2/2022

DATE

MICHAEL MORGAN


By: 
MICHAEL MORGAN

6/2/22
DATE

By: 
NEIL P. KELLY, ESQ.
Attorney for Defendant
52 Duane Street, 10th Floor
New York, NY 10007

6/2/2022
DATE

SO ORDERED:


HONORABLE PAUL G. GARDEPHE
UNITED STATES DISTRICT JUDGE

June 7, 2022
DATE